IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

FRIDAY, THE TWENTY FIFTH DAY OF JUNE TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE
and
HON'BLE Ms. JUSTICE G.ROHINI

WRIT APPEAL NO : 935 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/06/2004 in WP NO : 9443 OF 2004 on the file of the High Court.)

Between:

The Secretary, Board of Intermediate Education,
A.P., Hyderabad.

..... APPELLANT

AND

Kum.Vindya Tadakamalla, D/o.T.Vivek,
R/o.A-22, Journalist Colony, Jubilee HIlls, Hyderabad.

.....RESPONDENT

For the Appellant : KUM.C.SINDHU KUMARI, Advocate.

For the Respondent : MR.J.ASHVINI KUMAR, Advocate.

The Court Made the Following :

ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

……

1. Respondent herein filed W.P.No.9443 of 2004 on 31.5.2004 seeking direction against the appellant to receive the respondent's application for revaluation of answer scripts in respect of English Paper II and Commerce Paper II and revalue the same as per the method of valuation and key as per the general instructions issued by the appellant and pass such orders as may be deemed fit and proper. Along with the writ petition, an application for interim relief was also filed in WPMP.No.12086 of 2004 exactly for the same relief as was sought for in the writ petition. Writ petition along with the miscellaneous application came up before the single Judge of this court during summer vacation and learned single Judge without calling for any reply, while issuing notice to the appellant, directed that " There shall be interim direction as prayed for".

2 Appellant is aggrieved by the order which is impugned in the present appeal. We have heard counsel for the parties. We have, in a number of cases, already deprecated this practice of allowing interim applications and passing interim orders in terms of the prayer made in the interim application which prayer in turn is same as in the main writ petition. Passing such orders as an interim measure without hearing the opposite party amounts to almost allowing the main prayer in the writ petition which is contrary to all canons of principles of natural justice and also amounts to violating the principles of

natural justice. It must be termed as nullity. In case the court at the very threshold finds that writ petitioner would be entitled to the relief of urgent nature which if not granted is likely to make the main prayer in the writ petition as infructuous, nothing prevents the court in calling upon the opposite party to file its response, allow reasonable opportunity and take up the very writ petition expeditiously or pass interim order after hearing the opposite party and taking its version on record. But such orders cannot be passed at the very threshold without affording the opposite party an opportunity of putting forth its case or response on record.

3. Consequently appeal is allowed. Impugned order is set aside. WPMP.No.12086 of 2004 is dismissed on the ground that such a prayer cannot be allowed by way of interim measure. No costs.

4. Learned counsel for the appellant states that appellant will file reply to the writ petition by 28.06.2004.

5. Writ petition be posted before the learned single Judge on 30.06.2004 for disposal in accordance with law.

DEVINDER GUPTA. C.J.,

G. ROHINI. J.,

Dated: 25.06.2004.

VRK.

To

The Secretary, Board of Intermediate Education,
A.P., Hyderabad.

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE
AND
HON'BLE Ms. JUSTICE G.ROHINI.

W.A.NO. 935 OF 2004.

(Judgment of the Bench delivered by
Hon'ble The Chief Justice)

Dt: 25.06.2004.